

Title 20. Public Health and Welfare

Chapter X. Office of Long-Term Care, Division of Provider Services and Quality Assurance, Department of Human Services

Subchapter A. Generally

Part 414. Provider Manual for ICF/IID 16 Beds or More Long-Term Care Facilities

Subpart 1. Generally

20 CAR § 414-101. Intermediate care facilities for individuals with intellectual disabilities.

(a) Pertains to sixteen-bed or more facilities.

(b) In addition to meeting all standards outlined in federal regulations, intermediate care facilities for individuals with intellectual disabilities must comply with the following requirements.

Authority. Arkansas Code § 20-10-203.

Subpart 2. Licensure

20 CAR § 414-201. Generally.

(a)(1) Intermediate care facilities for individuals with intellectual disabilities (ICFs/IID), or related institutions, shall be operated, conducted, or maintained in this state by obtaining a license pursuant to the provisions of these licensing standards.

(2) Separate institutions operated by the same management require separate licenses.

(3) Separate licenses are not required for separate buildings on the same grounds.

(b)(1) Whenever ownership or controlling interest in the operation of a facility is sold, both the buyer and the seller must notify the Office of Long-Term Care at least thirty (30) days prior to the completed sale.

(2) The thirty-day notice shall be the date the paperwork is stamped received by the office.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-202. Application for license.

(a)(1) Applicants for license shall file a notarized application with the Division of Provider Services and Quality Assurance upon forms prescribed by the division and shall pay an annual license fee determined by multiplying ten dollars (\$10.00) by the total licensed resident beds or a maximum licensed client population.

(2) This fee shall be paid to the State Treasury.

(3) If the license is denied, the fee will be returned to the applicant.

(4) Facilities operated by any unit or division of state or local government shall be exempted from payment of a licensing fee.

(5) Application shall be signed by the owner if individually owned, by one (1) partner if owned under partnership, by two (2) officers of the board if operated under a corporation, church, or nonprofit association, and in case of a governmental unit, by the head of the governmental entity having jurisdiction over it.

(6) Applicants shall set forth the full name and address of the institutions for which license is sought, the names of the persons in control, a signed statement by a registered nurse indicating responsibility for nursing services of the home, and such other information as the division may require.

(b) In these instances where a distinct part of a facility is to be licensed as an intermediate care facility for individuals with intellectual disabilities and the remainder of the facility is to be licensed under some other category, separate applications must be filed for each license and separate licensure fees will be required with each application.

(c) Each facility applying for and receiving a license must furnish the following information:

(1) The identity of each person directly or indirectly having an ownership

interest of five percent (5%) or more in such facility;

(2) In case such facility is organized as a corporation or limited liability corporation (LLC), the identity of each officer and director of the corporation;

(3) In case such facility is organized as a partnership, the identity of each partner; and

(4)(A) Identity of owners of building and equipment leased including ownership breakdown of leasing entity.

(B) For purposes of this subdivision (c)(4), equipment leased refers to major equipment, such as heating/cooling, that is necessary and vital to the operation of the facility.

Authority. Arkansas Code §§ 20-10-203, 20-10-224.

20 CAR § 414-203. Renewal of application for licensure.

(a) Application for annual license renewal shall be postmarked or delivered to the Office of Long-Term Care no later than June 1 of the year in which renewal is sought.

(b) Any fee not paid when due shall be delinquent and shall be subject to assessment of a ten percent (10%) penalty.

Authority. Arkansas Code §§ 20-10-203, 20-10-224.

20 CAR § 414-204. Issuance of license.

(a) License shall be effective on a state fiscal year basis and shall expire on June 30 of each year.

(b) License shall be issued only for the premises and persons in the application and shall not be assignable or transferable.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-205. Denial, revocation, or suspension of license.

The Division of Provider Services and Quality Assurance is empowered to deny, suspend, or revoke licenses on any of the following grounds:

(1)(A) Violation of any of the provisions of Acts 1979, No. 28, or the rules lawfully promulgated hereunder.

(B) **Note.** The aforementioned act refers to Title 20, Subtitle 2, Chapter 10 of the Arkansas Code;

(2) Permitting, aiding, or abetting the commission of any unlawful act in connection with the operation of the institution, as defined in this part;

(3) Conduct or practices detrimental to the health or safety of residents and employees of any such institutions, but this provision shall not be construed to have any reference to healing practices authorized by law, as defined in this part; or

(4)(A) Failure to comply with the provisions of Acts 1969, No. 58, and the rules promulgated thereunder.

(B) **Note.** The aforementioned act requires the licensure of nursing home administrators.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-206. Notices and procedure on hearing prior to denial, suspension, or revocation of license.

(a) Whenever the Division of Provider Services and Quality Assurance decides to deny, suspend, or revoke a license, it shall send to the applicant or licensee a notice stating the reasons for the action by certified mail.

(b) The applicant or licensee may appeal such notice to the Long-Term Care Facility Advisory Board [abolished] as permitted by Arkansas Code § 20-10-301 et seq. [repealed].

Authority. Arkansas Code § 20-10-203.

Codification Notes. The Long-Term Care Facility Advisory Board was abolished by

Acts 2017, No. 540, § 39.

Arkansas Code §§ 20-10-301 and 20-10-302 were repealed by Acts 2017, No. 540, § 39.

Arkansas Code § 20-10-303 was repealed by Acts 2005, No. 898, § 4.

20 CAR § 414-207. Appeals to courts.

(a) Any applicant or licensee who considers himself or herself injured in his or her person, business, or property by final agency action shall be entitled to judicial review thereof.

(b) Proceedings for review shall be made by filing a petition in the circuit court of any county in which the petitioner does business or in the Pulaski County Circuit Court within thirty (30) days after service upon the petitioner of the agency's final decision.

(c) All petitions for judicial review shall be in accordance with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-208. Penalties.

Any person, partnership, association, or corporation, establishing, conducting, managing, or operating any institution without first obtaining a license therefor, or who violates any provision of applicable law, rule, or regulation lawfully promulgated shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for the first offense and not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each subsequent offense, and each day such institution shall operate after a first conviction shall be considered a subsequent offense.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-209. Inspection.

All institutions to which this part applies shall be subject to inspection for reasonable cause at any time by the authorized representation of the Division of Provider Services and Quality Assurance.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-210. Compliance.

An initial license will not be issued until the applicant has demonstrated to the satisfaction of the division that the facility is in substantial compliance with the licensing standards set forth in this part.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-211. Noncompliance.

(a) When noncompliance of the licensing standards are detected during surveys, licensees will be notified of the violations and will be requested to provide a plan of correction with a timetable for corrections.

(b) The Office of Long-Term Care may impose remedies as set forth in Arkansas Code §§ 20-10-205, 20-10-206, and 20-10-1004.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-212. Voluntary closure.

Any ICF/IID, or related institution, that voluntarily closes must meet the rules and regulations for new construction to be eligible for relicensure.

Authority. Arkansas Code § 20-10-203.

Codification Notes. "ICF/IID" means intermediate care facilities for individuals with intellectual disabilities.

20 CAR § 414-213. Exception to licensing standards.

(a)(1) The Division of Provider Services and Quality Assurance reserves the right to make temporary exceptions to these standards where it is determined that the health and welfare of the community requires the services of the institution.

(2) Exceptions will be limited to unusual circumstances and the safety and well-being of the residents will be carefully evaluated prior to making such exceptions.

(b)(1) Overbeds will be authorized only in cases of emergency.

(2) An emergency exists when it can be demonstrated that the resident's health or safety would be placed in immediate jeopardy if relocation were not accomplished.

(3) A fire, natural disaster (e.g., tornado, flood, etc.), or other catastrophic event that necessitates resident relocation will be considered an emergency.

(4) The Office of Long-Term Care must be contacted for prior authorization of the overbed, and all authorizations must be in writing.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-214. Provisional licensure.

(a)(1) Subject to the requirements below, a provisional license shall be issued to the applicant and new operator of the long-term care facility when the Office of Long-Term Care has received the Application for Licensure to Conduct a Long-Term Care Facility.

(2) A provisional license shall be effective from the date the office provides notice to the applicant and new operator, until the date the long-term care license is issued.

(3) With the exception of Medicaid or Medicare provider status, a provisional license confers upon the holder all the rights and duties of licensure.

(b) Prior to the issuance of a provisional license:

(1) The purchaser and the seller of the long-term care facility shall provide the office with written notice of the change of ownership at least thirty (30) days prior to the effective date of the sale;

(2) The applicant and new operator of the long-term care facility shall provide the office with the application for licensure, including all applicable fees; and

(3) The applicant and new operator of the long-term care facility shall provide the office with evidence of transfer of operational control signed by all applicable parties.

(c)(1) A provisional license holder may operate the facility under a new name, whether fictitious or otherwise.

(2) For purposes of this section:

(A) "New name" means a name that is different than the name under which the facility was operated by the prior owner; and

(B) "Operate" means that the provisional license holder may hold the facility out to the public using the new name.

(3) Examples include, but are not limited to, signage, letterhead, brochures, or advertising (regardless of media) that bears the new name.

(d)(1) In the event that the provisional license holder operates the facility under a new name, the facility shall utilize the prior name in all communications with the office until such time as the license is issued.

(2) Such communications include, but are not limited to, incident reports, notices, plans of correction, and MDS submissions.

(3) Upon the issuance of the license, the facility shall utilize the new name in all communications with the office.

Authority. Arkansas Code § 20-10-203.

Codification Notes. "MDS" means Minimum Data Set.

Subpart 3. Officers

20 CAR § 414-301. Chief Executive Officer.

(a) The Chief Executive Officer of the facility must be a licensed nursing home administrator in Arkansas.

(b) In facilities with fifteen (15) beds or less the administrator may be a QIDP and would not be required to have an administrator's license if the small facility is a satellite of a larger facility which has a licensed nursing home administrator.

Authority. Arkansas Code § 20-10-203.

Codification Notes. "QIDP" means qualified intellectual disability professional.

Subpart 4. Administration

20 CAR § 414-401. Generally.

(a)(1) There shall be keys available for all locked doors within the facility.

(2) Keys for all locked doors may be available in the main office or a designated place.

(b) All containers of substances used in the facility shall be legibly and accurately labeled as to contents.

(c) Fire extinguishers shall be adequate, of the correct type, and properly located and installed.

(d)(1) Laboratories and radiological facilities operated in the ICF/IID shall comply with the rules for these services as contained in the rules for hospitals and related institutions in Arkansas.

(2) Pharmacies operated in the ICF/IID shall be operated in compliance with Arkansas laws and shall be subject to inspection by personnel from the Division of Provider Services and Quality Assurance.

Authority. Arkansas Code § 20-10-203.

Codification Notes. "ICF/IID" means intermediate care facilities for individuals with intellectual disabilities.

20 CAR § 414-402. Personnel administration.

(a) A personnel file shall be maintained for each employee.

(b) All employees requiring licensure shall have this licensure verified at appropriate intervals.

(c) No employee afflicted with a communicable disease or infected skin lesion shall be permitted to work.

(d)(1) All employees and voluntary workers must have a skin test for tuberculosis and be determined free of communicable disease prior to employment or service.

(2) These personnel shall have such redetermination annually.

(e) Written job descriptions shall be developed for each employee classification and shall include as a minimum responsibilities and/or actual work to be performed, physical and educational qualifications, and licensure required.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-403. Staff development.

(a) Job orientation shall be provided for all personnel to acquaint them with the needs of the clients, the physical facility, disaster plan, and the employees' specific duties and responsibilities.

(b)(1) All employees shall be involved in the continuing education program.

(2) Documentation shall be kept of participation in such continuing education programs.

(c)(1) Personnel for each shift shall be trained at least on a quarterly basis in the proper use of all fire extinguishers and the procedure to follow in the case of fire or explosion.

(2) Tornado drills shall be conducted semiannually for each shift.

(3) Other disaster drills should be held annually for each shift.

(4) A record shall be maintained of the drills held, and this record shall include the time and date the drill was held, along with the signatures of all staff participating.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-404. Reports.

(a) A report by telephone or in writing shall be promptly submitted to the administrator, Certification Division, and Office of Long-Term Care, in all cases of:

(1) Fire;

(2) Damage to the facility due to any natural disaster;

(3) Major incidents;

(4) Any change in administrator or Director of Nursing Services;

(5) Change in ownership;

(6) All cases of reportable disease; and

(7) Any other unusual occurrence which threatens the welfare, safety, or health of residents or personnel.

(b) Telephone reports should be followed-up by a written confirmation.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-405. Infection control.

(a) Written policies and procedures shall be established for investigating, controlling, and preventing infections.

(b) Procedures shall be reviewed annually and revised as necessary for effectiveness and improvement.

(c) The policies and procedures shall include as a minimum:

(1) Aseptic and isolation techniques;

(2) Proper disposal techniques for infected dressing, disposable syringes, needles, etc.;

- (3) Prohibiting the use of the common:
 - (A) Towel;
 - (B) Bath and hand soap; and
 - (C) Drinking cup or glass; and
- (4) Proper reporting of communicable disease.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-406. Handling of oxygen and flammable gases.

(a) Policies shall be written for the proper handling of oxygen and flammable gases.

(b) There shall also be written procedures for the care of equipment such as humidifiers, masks, cannulas, etc.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-407. Transportation of clients.

The facility shall establish a written policy regarding transportation of clients, when necessary, to:

- (1) The hospital;
- (2) Medical clinics; and
- (3) Dentist offices.

Authority. Arkansas Code § 20-10-203.

Subpart 5. Physical Environment

20 CAR § 414-501. New construction.

(a) All new construction shall meet the following standards outlined in this section:

- (1) General;

- (2) Site location, inspection, approvals, and subsoil investigation;
- (3) Submission of plans, specifications, and estimates;
- (4) Plans and specifications; and
- (5) Codes and standards.

(b) Adequate built-in closets shall be provided in each patient room for storage of clothing and other possessions.

(c) Each room shall have direct access to a corridor and outside exposure, with the floor at or above grade level.

(d) Corridors shall be at least eight feet (8') wide.

(e)(1) Community laundries in new facilities must provide complete separate (by partition) of the soiled laundry area (including washer) and the clean laundry area.

(2) A lavatory with soap and towel dispensers must be provided for the staff in each area and a rinsing sink provided in the soiled laundry area.

(3) A linen folding table must be provided in the clean laundry area.

(f)(1) The total area set aside for clients' dining and recreation purposes shall not be less than twenty square feet (20 sq. ft.) per bed.

(2) The areas shall be well lighted and well ventilated.

(g)(1) Janitors' closets shall be provided for each unit.

(2) These closets shall be provided with hot and cold running water, a floor receptor or service sink, and shelves for the storage of janitorial equipment and supplies.

(3) The closets shall be mechanically ventilated to the outside when janitorial supplies are present, closets must be kept locked.

(h)(1) Space shall be provided for storage of soiled linen pending pick up.

(2) This dirty linen storage shall be in a separate room and ventilated to the outside.

(i)(1) Each facility shall have an electrically-supervised, manually operated fire alarm system in accordance with Section 6-3, NFPA 101, Life Safety Code Handbook that applies to their facility.

(2) The fire alarm system shall be installed to transmit an alarm automatically

to the fire department that is legally committed to serve the area in which the facility is located by the most direct and reliable method approved by the Office of Long-Term Care.

(3) An alarm signaling system may be connected to the fire department by:

(A) Direct connection to the fire department monitoring panel;

(B) Direct connection to the police or sheriff's department monitoring panel if they do or can do the dispatching of the fire department;

(C) Direct connection to the monitoring panel of a twenty-four (24) hour monitoring service that has a direct telephone line to the fire department; or

(D) If none of the above are available to a facility, this part will not be enforced in that facility until their fire department obtains the capability.

(j) The construction and facility provisions shall comply with the American National Standards Institute (ANSI) Standard No. (A 117.1).

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-502. Existing construction.

(a) All existing facilities must be maintained, managed, and equipped to provide adequate care, safety, and treatment of each resident.

(b) All exterior doors shall be effectively weather-stripped.

(c) Doors which open onto corridors shall swing into rooms except closet and toilet doors.

(d)(1) Exit doors shall not be locked in such a way that a key is necessary to open the door from the inside of the building.

(2) A latch or other fastening device on the door shall be provided with a knob, handle, panic bar, or other simple type of releasing device which is part of the door handle hardware of which the method of operation is obvious even in the dark, except with automatic unlocking system connected to the fire alarm system.

(e)(1) Each client's room shall have a window not less than one-sixteenth (1/16) of the floor space or outside door arranged and located so that it can be openable.

(2) The window shall be so located that the patients have an outside view.

(f) Corridors shall be at least six feet (6') wide.

(g)(1) A well-lighted, clean, orderly, ventilated room or rooms shall be provided for patient activities and for dining areas.

(2) A minimum of twenty square feet (20 sq. ft.) per bed shall be provided for this purpose.

(h)(1) Each client's room shall have an adequate amount of natural light during the day and have general lighting and night lighting.

(2) Natural lighting shall be augmented when necessary by artificial illumination.

(i) Approved "exit" lights shall be provided at all exit areas of building housing thirty (30) people or more.

(j)(1) The facility shall provide an emergency source of electrical power necessary to protect the health and safety of the clients in the event the normal electrical supply is interrupted.

(2) The emergency electrical power system must supply power adequate at least for lighting all means of egress, equipment to maintain fire detection, alarm, and extinguishing systems.

(k) The water supply used by the institution shall meet the requirements of the Department of Health.

(l)(1) There shall be procedures to ensure water to all essential areas in the event of loss of normal water supply.

(2) This may be in the form of a written agreement.

(m) The water service shall be brought into the building to comply with the requirements of the Arkansas Plumbing Code, 17 CAR pt. 65, and shall be free of cross connections.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-503. Hot water heaters.

(a)(1) The hot water heating and storage equipment shall have sufficient capacity to supply:

(A) Six and one-half gallons (6 ½ gals.) of water at one hundred ten degrees Fahrenheit (°110 F) (forty-three degrees Celsius (°34 C)) per hour per bed for institution fixtures;

(B) Five gallons (5 gals.) at one hundred eighty degrees Fahrenheit (°180 F) (eighty-two degrees Celsius (°28 C)) per hour per bed for the laundry; and

(C) Four gallons (4 gals.) at one hundred eighty degrees Fahrenheit (°180 F) (eighty-two degrees Celsius (°28 C)) per hour per bed for the kitchen.

(2) The water temperature in patient areas shall not exceed one hundred ten degrees Fahrenheit (°110 F) (forty-three degrees Celsius (°34 C)).

(b) The hot water storage tank, or tanks, shall have a capacity equal to fifty percent (50%) of heater capacity.

(c) Tanks and heaters shall be fitted with pressure temperature relief valves.

(d) Temperatures of hot water at plumbing fixtures used by resident shall be automatically regulated by control valves.

(e) All gas, oil, or coal heaters shall be properly vented to the outside.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-504. Plumbing and other piping systems.

(a) All plumbing systems shall be designed and installed in accordance with the requirements of Arkansas Plumbing Code, 17 CAR pt. 65.

(b) From the cold water service and hot water tanks, cold water and hot water mains and branches shall be run to supply all plumbing fixtures and equipment which require hot and cold water, or both, for their operation.

(c)(1) Pipes shall be sized to supply hot and cold water to all fixtures with a minimum pressure of fifteen pounds (15 lbs.) at the top-floor fixtures' maximum demand periods.

(2) Any replacement of water closets shall be of the elongated type, and water

closet seats shall be of open-front type.

(3) Gooseneck spouts shall be used for patients' lavatories and sinks which may be used for filling pitchers.

(4) Knee, elbow, wrist, or foot-action faucets shall be used in treatment rooms.

(5) Elbow or wrist-action blade handle controls shall be used on all other lavatories and sinks designated for use by facility employees (community laundry, kitchen, nurses' station, janitors' closet, clean and dirty utility rooms).

(6) An electrically operated water fountain of an approved type shall be so located as to be accessible to patients.

(7)(A) Back-flow preventers, vacuum breakers, shall be appropriately installed with any water supply fixture where the end of the outlet may at times be submerged.

(B) Examples of such fixtures are hoses, sprays, direct-flushing valves, aspirators, and under-rim water supply connections to a plumbing fixture or receptacle in which the surface of the water in the fixture or receptacle is exposed at all times to atmospheric pressure.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-506. Furnishings, equipment, and supplies.

(a)(1) Each resident shall be provided with a rigid single bed in good repair measuring a minimum of thirty-six inches (36") in width.

(2) The beds shall be equipped with a suitable, comfortable pillow and a comfortable, firm mattress in good repair which is four to five inches (4"-5") thick and shall be covered with a moisture repellent material.

(3) Beds in areas housing nonambulatory residents shall be provided with three-inch casters and at least two (2) of the four (4) casters shall be of the locking type.

(b) Each resident shall be provided with appropriate storage space for personal items within his or her bedroom area.

(c) Each resident shall be provided with a comfortable chair at the bedside unless contraindicated for programmatic reasons.

(d) Each window shall be provided with flame-retardant curtains.

(e) All wastebaskets shall meet the flame retardant requirements under the NFPA standards.

Authority. Arkansas Code § 20-10-203.

Codification Notes. "NFPA" means National Fire Protection Association.

20 CAR § 414-507. Linens and bedding.

(a)(1) A sufficient supply of clean bed linen shall be available at all times.

(2) A minimum of two (2) clean sheets and one (1) clean pillowcase shall be provided for each bed on a weekly basis.

(3) Linens shall be changed as often as indicated in order to keep the resident:

(A) Clean;

(B) Comfortable; and

(C) Dry.

(b) Each bed shall be covered with a suitable bedspread at least during the hours of the day when the bed is not occupied.

(c)(1) Sufficient blankets shall be provided to ensure the warmth of each resident and shall be laundered as often as necessary to ensure cleanliness and freedom from odors.

(2) The blankets shall be individually assigned to residents and not passed indiscriminately to residents without first being laundered.

(d) Table linens shall be laundered separately from bed linen and clothing.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-508. Equipment and supplies.

(a)(1) Nursing supplies and equipment shall be provided as indicated to meet the needs of the residents.

(2) As a minimum, the following shall be maintained:

- (A) Items for personal care and grooming;
- (B) Individual soap dishes;
- (C) Hypodermic syringes and needles;
- (D) One (1) oxygen unit;
- (E) Forceps and forceps jars;
- (F) Enema equipment;
- (G) Hot water bottles and ice caps with covers;
- (H) Suction machines;
- (I) Weight scales;
- (J) Flashlight at each station;
- (K) Thermometers;
- (L) Gloves, nonsterile and sterile;
- (M) A stretcher;
- (N) First aid equipment and supplies; and
- (O) Blood pressure equipment.

(b)(1) Thermometers shall be disinfected by a suitable method as approved by the Office of Long-Term Care.

(2) A suitable method is to clean the thermometer thoroughly with soap and water and place in solution of iodine one percent (1%) and isopropyl alcohol for at least ten (10) minutes, rinse thoroughly with cold water before use.

(3) Any other method approved by the office may be used.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-509. Housekeeping/maintenance.

(a)(1) All rooms and every part of the building, exterior and interior, shall be kept:

- (A) Clean;

- (B) Orderly; and
- (C) Free of offensive odors.

(2) Bath and toilet facilities and all food areas shall be clean and sanitary at all times.

(b)(1) Deodorants shall not be used to cover up odors.

(2) Odor control shall be achieved by prompt cleansing and by approved ventilation.

(c) Attics, cellars, beneath stairs, and similar areas shall be kept clean of accumulation of:

- (1) Refuse;
- (2) Old newspapers; and
- (3) Discarded furniture.

(d) Storage areas shall be kept in a safe and neat order.

(e) Combustibles such as rags and cleaning compounds and fluids shall be kept in closed metal containers.

(f) Buildings and grounds shall be kept free from refuse and litter.

(g) Adequate storage facilities with proper ventilation shall be provided for mattresses.

(h) All useless items and materials shall be removed from the institution area and premises.

(i) Matches and other flammable, or dangerous, items shall be stored in metal containers with tight fitting lids.

(j) Mechanical rooms, boiler rooms, and similar areas shall not be used for storage purposes.

(k)(1) All inside openings to attics and false ceilings shall be kept closed at all times.

(2) The attic area shall be clear of all storage.

(l) Mop heads shall be of the removable type and shall be laundered or replaced at frequent intervals to ensure a standard of cleanliness.

(m)(1) Garbage must be kept in substantial containers with tight fitting covers.

(2) The containers must be thoroughly cleaned before reuse.

(3) Garbage, or rubbish, and trash shall be disposed of by incineration, burial, sanitary fill, or approved method and within a time limit set by the Division of Provider Services and Quality Assurance.

(4) Garbage areas shall be kept clean and in a state of good repair.

(n)(1) All poisons, bleaches, detergents, and disinfectants shall be kept in a safe place accessible only to employees or clients who use such products under supervision.

(2) They shall not be kept in storage areas or containers previously containing food or medicine.

Authority. Arkansas Code § 20-10-203.

Subpart 6. Medical Services

20 CAR § 414-601. Professional nurse supervision.

(a) A registered nurse shall be employed full-time as the Director of Nursing Services and work on the day shift.

(b)(1) The Director of Nursing Services shall be responsible for:

(A) The development and maintenance of nursing service objectives;

(B) Standards of nursing practice;

(C) Nursing policy and procedure manuals;

(D) Written job descriptions for each level of nursing personnel;

(E) Coordination of nursing service with other services;

(F) Recommending number and levels of nursing personnel to be employed; and

(G) Nursing staff development.

(2) The Director of Nursing Services may work in conjunction with an organized staff development department.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-602. Treatment and medications.

(a)(1) No medication or treatment shall be given without the written order of the physician or dentist.

(2) Drugs shall be administered in accordance with orders.

(b)(1) If it is necessary to take physician's or dentist's orders over the telephone or verbally, the order shall be immediately written on the physician's order sheet in the medical record and signed by the nurse who took the order.

(2) Documentation shall include the name of the physician or dentist who gave the telephone or verbal order and the date and time of the order.

(3) The order shall be countersigned by the attending physician or dentist on his or her next regular visit or no more than seven (7) days from the time the telephone or verbal order was given.

(4) There shall be indication made by the nurse that the orders were transcribed (signature and time).

(c) Each resident shall be identified prior to administration of medication.

(d) Each resident shall have an individual medication record.

(e) The dose of a drug administered to a resident shall be properly recorded by the person who administered the drug except in established self-medication programs.

(f) Medications shall be administered only by licensed nursing personnel except in established self-administration programs.

(g) Treatment of a lesion or open wound shall be done only by licensed nursing personnel.

(h)(1) Medication setups may be prepared one (1) shift at a time.

(2) The medication must be administered on the same shift on which they are prepared.

(3) Liquids and injectables shall not be set up more than one (1) hour in advance.

(i) Medications shall be administered by the same person who prepared the doses for administration, except under single unit-dose package distribution systems.

(j) The attending physician shall be notified of an automatic stop-order prior to the last dose so that the physician may decide if the administration of the medication is to be continued or altered.

(k)(1) There shall be written policies and procedures for the development of any self-administration program.

(2) These policies must include qualifications of clients to participate in the program and procedures for monitoring the program.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-603. Tuberculosis surveillance.

(a)(1) Upon admission to the nursing home, physician orders shall be obtained to administer a PPD (intermediate strength) tuberculin skin test to the resident and to repeat in ten (10) to fourteen (14) days if necessary.

(2) If this initial test reacts positively, the physician should be notified and a chest X-ray obtained and read.

(3) The report of this X-ray should be placed on the resident's chart.

(b)(1) If it is not possible to obtain a chest X-ray, a sputum sample should be taken and forwarded for culture.

(2) If treatment is indicated, orders are obtained from the attending physician.

(c)(1) If the result of the initial skin test is negative, the skin test should be repeated in ten (10) to fourteen (14) days.

(2) If the result of this test is positive, the physician should be notified and a chest X-ray or sputum culture obtained.

(3) If treatment is indicated as a result of these tests, orders are obtained from the attending physician.

(4) Once a resident has shown a positive skin test, regardless of whether or not further testing indicated treatment, he or she must be re-evaluated yearly.

(5) Either a chest X-ray or sputum culture should be obtained.

(6) If neither of these is possible, the resident should be evaluated for any

visible signs of the disease such as productive cough or weight loss.

(7) There should be evidence in the medical record of this yearly re-evaluation.

(b)(1) If, however, the second skin test after admission is also negative, there need be no further testing of this resident unless an active case of tuberculosis is identified in the facility.

(2) The medical record of all residents who have shown a positive skin test should be flagged to note that this resident does need to be re-evaluated yearly and that a sputum culture should be obtained following any pulmonary infection.

Authority. Arkansas Code § 20-10-203.

Subpart 7. Pharmaceutical Services

20 CAR § 414-701. Responsibility for pharmacy compliance.

(a) The administrator shall be responsible for full compliance with federal and state laws governing procurement, control, and administration of all drugs.

(b) Full compliance is expected with the Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. No. 91-513, and all amendments to this set and all regulations and rulings passed down by the federal Drug Enforcement Agency, Acts 1971, No. 590, and all amendments to it and this part.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-702. Administration of medication.

(a) No medication shall be given without a written order by a physician or dentist.

(b)(1) All medications shall be given by licensed nursing personnel.

(2) The administrator or his or her appointed assistant shall be responsible for ensuring that qualified nursing personnel administer all medications order by a physician or dentist except in established self-administration programs.

(c) Caution shall be observed in administering medication so that the exact dosage

of the prescribed medication is given as ordered by the doctor or dentist.

(d) Each resident must have an individual container, bin, compartment, or drawer for the storage of his or her medications in the medication room, unless the unit dose system is employed.

(e)(1) Nursing personnel cannot transfer more than one (1) dose of medication from container to container.

(2) Loading narcotic counters, preparing take-home supply of medications, incorporating supplies, etc., by nursing personnel are not permitted.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-703. Equipment for administering medications.

(a) There shall be calibrated medicine containers to correctly measure liquid medications.

(b) Disposable items shall not be reused.

(c) Disposable syringes and needles must be disposed of by breaking and incineration.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-704. Medicine cards.

(a) In administering medications, medication cards current with physician order must be used.

(b) Medicine cards, except in the case of established self-administration programs, shall be provided to include:

- (1) Name of client;
- (2) Location of client;
- (3) Medication and dosage; and
- (4) Hours to be given.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-705. Stop-order policy.

(a) Medications not specifically limited as to time or number of doses when ordered by the physician shall be controlled by the facility's policy regarding automatic stop orders.

(b) The facility's automatic stop-order policy, at a minimum, shall cover the following categories of medications:

- (1) Schedule II narcotics;
- (2) Schedule II nonnarcotics;
- (3) Schedule III, Schedule IV, and Schedule V medications;
- (4) Anticoagulants; and
- (5) Antibiotics.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-706. Storage of drugs.

(a) All drugs on the premises of a nursing home except for the emergency tray as defined by the State Board of Health and the Arkansas State Board of Pharmacy shall be in a properly labeled container as dispensed upon prescription by the pharmacy.

(b)(1) All medications shall be kept in a locked cabinet or locked room at all times.

(2) Only the nurse responsible for administering the medication shall have the key.

(c) All drugs for external use shall be kept in a safe place accessible only to employees and kept in a special area apart from other medications and prescriptions.

(d)(1) Medicines requiring cold storage shall be refrigerated.

(2) A locked container placed below food level in a home refrigerator is considered satisfactory storage space.

(e)(1) Labels should be affixed to the immediate container.

(2) The immediate container is that which is in direct contact with the drug at

all times.

(f) Drug rooms shall be supplied with adequate lighting so that medications can be safely prepared for administration.

(g) The drug room shall be properly ventilated so that the temperature requirements set by the U.S.P. are met: fifty-nine degrees Fahrenheit (°95) F) to eighty-six degrees Fahrenheit (°68) F).

Authority. Arkansas Code § 20-10-203.

Codification Notes. "U.S.P." means United States Pharmacopeia.

20 CAR § 414-707. Record of controlled drugs.

(a)(1) A record shall be kept in a bound ledger book with consecutively numbered pages of all controlled drugs procured and administered.

(2) This record shall contain on each separate page:

- (A) Name, strength, and quantity of drug received;
- (B) Date received;
- (C) Patient's name;
- (D) Prescribing physician;
- (E) Name of pharmacy;
- (F) Date and time of dosage given;
- (G) Quantity of drug remaining; and
- (H) Signature of person administering the drug.

(b)(1) The person responsible for entering the controlled drug into the bound ledger should be the same person who signs for it in the drug ordering and receiving record.

(2) This record shall be retained by the facility as a permanent record and be readily available.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-708. Controlled drug accountability.

(a)(1) There shall be a count of all CII controlled medications at each change of shift.

(2) All Schedule III, Schedule IV, and Schedule V controlled medications should be counted at least once daily unless a true unit dose system is used.

(3) This counting shall be made by the off-going charge nurse and the on-coming charge nurse.

(4) If licensed personnel are not available on a shift, a nonlicensed employee can co-sign as a witness with the off-going nurse and co-sign as a witness again with the on-coming nurse.

(5) This counting shall be documented.

(6) This documentation shall include the date and time of the count, a statement as to whether or not the count was correct, and if it was incorrect, an explanation of the discrepancy.

(b)(1) This record shall be retained by the facility as a permanent record and be readily retrievable.

(2) When loss, suspected theft, or an error in the administration of controlled drugs occurs, it must be reported to the Director of Nursing Services and an incident report filled out.

(3) Also, a copy of the form for reporting theft or loss of controlled substances should be mailed to the Division of Pharmacy Services and Drug Control of the Department of Health.

(4) All documentation must be retained in the facility as a permanent record.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-709. Wasting of controlled drugs.

(a) When a dose of a controlled drug is dropped or broken, two (2) people should make a statement in the bound ledger as to what occurred, and both must sign their

names.

(b) These two (2) people shall be licensed nursing personnel whenever possible.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-710. Cycle-fill, pharmacy notification, and disposition of unused drugs.

(a)(1) Schedule II, III, IV, and V drugs dispensed by prescription for a patient and no longer needed by the patient must be delivered in person or by registered mail to: Division of Pharmacy Services and Drug Control, Arkansas Department of Health, 4815 West Markham Street, Little Rock, Arkansas 72204 along with Department of Health Form (PHA-DC-1) Report of Drugs Surrendered for Disposition According to Law.

(2) When unused portions of controlled drugs go with a patient who leaves the facility, the controlled drug record shall be signed by the person who assumes responsibility for the patient and the person in charge of the medication in the facility.

(3) This shall be done only on the written order of the physician and at the time the patient:

- (A) Is discharged;
- (B) Is transferred; or
- (C) Visits home.

(b)(1)(A) All medications other than Schedule II, III, IV, and V not taken out of the facility by the patient with the physician's consent when he or she is discharged from the facility shall be destroyed.

(B) See subdivision (b)(4) of this section, on handling medication when a resident enters a hospital or is transferred.

(C) All discontinued medications, except controlled drugs, shall be destroyed on the premises of the facility.

(D) Destruction shall be made by the consultant pharmacist and a nurse with a record made as to the date, quantity, prescription number, patient's name, and strength of medications destroyed.

(E) The destruction should be by means of:

- (i) Incineration;
- (ii) Garbage disposal; or
- (iii) Flushing down the commode.

(F) This record shall be kept in a bound ledger with consecutively numbered pages.

(G) This record shall be retained by the facility as a permanent record and be readily retrievable.

(2)(A) Only oral solid medications may be cycle-filled.

(B) Provided, however, that if an oral solid medication meets one (1) of the categories below, then that oral solid medication may not be cycle-filled:

- (i) PRN or "as needed" medications;
- (ii) Controlled drugs (Schedule II – V);
- (iii) Refrigerated medications;
- (iv) Antibiotics; and
- (v) Anti-infectives.

(3)(A) A facility shall notify the pharmacy in writing of any change of condition that affects the medication status of a resident.

(B) For purposes of this subdivision (b)(3), change of condition includes death, discharge, or transfer of a resident, as well as medical changes of condition that necessitate a change to the medication prescribed or the dosage given.

(C) The notification shall be made within twenty-four (24) hours of the change of condition.

(D) If the notification would occur after 4:30 p.m. Monday through Friday, or would occur on a weekend or holiday, the facility shall notify the pharmacy by no later than 11:00 a.m. the next business day.

(E) Documentation for drugs ordered, changed, or discontinued shall be retained by the facility for a period of no less than fifteen (15) months.

(4)(A) When a resident is transferred or enters a hospital, a facility shall hold all medication until the return of the resident, unless otherwise directed by the

authorized prescriber.

(B) All continued or reordered medications will be placed in active medication cycles upon the return of the resident.

(C) If the resident does not return to the facility, any medications held by the facility shall be placed with other medications or drugs for destruction or return as permitted by Arkansas State Board of Pharmacy rules.

Authority. Arkansas Code § 20-10-203.

Subpart 8. Dietetic Services

20 CAR § 414-801. Hygiene of staff.

(a)(1) All food service employees shall wear appropriate, light colored clothing including hairnet and shall keep themselves and their clothing clean.

(2) Males may wear caps.

(b) All persons working as food handlers in nursing homes shall have in their possession, or on file in the home in which they are employed, a currently approved health card.

(c) Persons having symptoms of communicable or infectious diseases or lesions shall not be allowed to work in the dietetic services.

(d) Food service employees shall not be assigned duties outside dietetic services.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-802. Frequency of meals.

(a) At least three (3) meals are served daily.

(b) The meals shall be served at approximately the same hours each day.

(c)(1) There shall not be more than fourteen (14) hours between the availability of a substantial supper and breakfast.

(2) Supper shall include, as a minimum:

- (A) Two ounces (2 ozs.) of a substantial protein food;
- (B) A starch (or substitute), or soup;
- (C) Vegetable or fruit;
- (D) Dessert; and
- (E) Beverage, preferably milk.

(d)(1) Bedtime snacks of nourishing quality shall be routinely offered to all clients requesting such and whose diets do not prohibit the service of this night feeding.

(2) Milk, juices, cookies, or crackers shall be offered.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-803. Menus.

(a)(1) Menus shall be planned and written two (2) weeks in advance and posted at least one (1) week in advance.

(2) Menus for each level shall be written.

(3) Arrows, etc., are not acceptable.

(b)(1) Weekly menus shall not be repeated more often than a three-week cycle.

(2) Identical meals shall not be repeated more often than once every three (3) weeks.

(c) Changes shall be recorded on both the regular and therapeutic diet menus.

(d) Menus which have been posted in the kitchen shall not be redated and reused.

(e) Meals served shall correspond essentially with the posted menus and shall be served in sequential order as planned and approved by the dietetic services consultant.

(f) Records of menus as served shall be on file and maintained for thirty (30) days.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-804. Therapeutic diets.

(a)(1) There shall be a system of written communications between dietetic service and nursing services, i.e., diet order forms.

(2) Nursing services should send a written patient diet list monthly and diet change slips as diets are changed by the physician.

(b) Therapeutic diets shall be served only to those patients for whom there is a physician's or dentist's written order.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-805. Preparation and storage of food.

(a)(1) An adequately sized storage room shall be provided with adequate shelving.

(2)(A) Seamless containers with tight fitting lids, clearly labeled, shall be provided for bulk storage of dry foods.

(B) It is recommended that these containers be placed on dollies for easy moving.

(3) The storage room shall be of such construction as to prevent:

(A) The invasion of rodents and insects;

(B) The seepage of dust;

(C) Water leakage; or

(D) Any other contamination.

(4) The room shall be clean, orderly, well ventilated, and without condensation of moisture on the walls.

(5) Food in any form shall not be stored on the floor.

(6) The bottom shelf shall be twelve inches (12") above the floor.

(b)(1) All food prepared in the ICF/IID shall be clean, wholesome, free from spoilage, and so prepared as to be safe for human consumption.

(2) All food stored in the refrigerators shall be stored in covered containers.

(3) Leftover foods shall be labeled and dated with the date of preparation.

(4) Foods stored in freezers shall be:

(A) Wrapped in air-tight packages;

(B) Labeled; and

(C) Dated.

(c)(1) Fresh fruits and vegetables shall be thoroughly washed in clean, safe water before use.

(2) Vegetables subject to dehydration during storage shall be wrapped or bagged in plastic.

(d)(1) All readily perishable foods, including eggs or fluids, shall be stored at or below forty-five degrees Fahrenheit (°54) F).

(2) A reliable and visible thermometer shall be kept in the refrigerator.

(e)(1) All frozen foods shall be stored at zero degrees Fahrenheit (°0) F) or below.

(2) A reliable and visible thermometer shall be kept in the freezer.

(3) Frozen foods, which have been thawed, shall not be refrozen.

(f) Potentially hazardous frozen foods shall be thawed at refrigerator temperatures of forty-five degrees Fahrenheit (°54) F) or below.

(g)(1) Eggs shall be stored below all other foods.

(2) Whole fresh eggs shall not be cracked more than two (2) hours before use.

(h) All toxic compounds shall be used with extreme caution and shall be stored in an area separate from food preparation storage, and service areas.

(i) Work areas and equipment shall be adequate for the efficient preparation and service of foods.

(j) The use of tobacco in any form is prohibited where food or drink is prepared, stored, cooked, or where dishes or pots and pans are washed or stored.

(k) Foods shall be cut, chopped, ground, or pureed to meet the individual needs of the patient.

(l) If a patient refuses foods served, substitutes of similar nutritive value shall be prepared and served.

Authority. Arkansas Code § 20-10-203.

Codification Notes. "ICF/IID" means intermediate care facilities for individuals with intellectual disabilities.

20 CAR § 414-806. Sanitary conditions.

(a) Food shall be procured from sources approved or considered satisfactory by federal, state, and local authorities.

(b) Floors shall be cleaned after each meal.

(c)(1) Dishes, silverware, and glasses shall be free of:

- (A) Breaks;
- (B) Tarnish;
- (C) Stain;
- (D) Cracks; and
- (E) Chips.

(2) There shall be ample supply to serve all residents.

(3) Residents will be furnished knives, forks, and spoons unless there is documentation to indicate the resident is incapable of using these implements.

(d)(1) Vessels used in preparing, serving, or storing food shall be made of seamless metal or a nonabsorbent material, which can be easily cleaned and shall be used for no other purpose.

(2) Enamelware shall not be used.

(e) Rags from patient bedding, clothing, or bath shall not be used in dietetic services for any purpose.

(f)(1) Dishes, knives, forks, spoons, and other utensils used in the preparation and serving of foods must be stored in such a manner as to be protected from:

- (A) Rodents;
- (B) Flies or other insects;
- (C) Dust;
- (D) Dirt; or
- (E) Other contamination.

(2) Silverware shall be stored in a clean container that can be thoroughly washed and sanitized.

(g)(1) Paper or loose covering shall not be used on:

- (A) Shelves;

- (B) Cabinets;
- (C) Cabinet drawers;
- (D) Refrigerators; or
- (E) Stoves.

(2) Storage cabinets shall be kept clean.

(3) Cardboard boxes shall not be saved and used for the storage of food or articles which were not packed in that original box.

(h)(1) Hand washing facilities shall be equipped with blade-action controls and hot and cold water.

(2) Soap and towel dispensers and a step-on trash can shall be located conveniently to the lavatory.

(3) The kitchen lavatory shall be equipped with a goosenecked spout.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-807. Dietetic services staffing.

(a)(1) Staffing will be correlated to the size of the facility and the total patient meals served.

(2) Facilities with fifty-nine (59) beds or less shall be staffed at ten (10) minutes for each meal served.

(3) Facilities with sixty (60) to eighty (80) beds shall be staffed at eight and one-half (8.5) minutes for each meal served.

(4) Facilities with eighty-one (81) to one hundred twenty (120) beds shall be staffed at six (6) minutes for each meal served.

(5) Facilities with one hundred twenty-one (121) beds or more shall be staffed at five and one-half (5.5) minutes for each meal served.

(b) Method for determining dietary staffing:

(1) Number of minutes per meal x three (3) = number of minutes per day;

and

(2) Number of minutes per day x number of patients divided by sixty (60) =

number of hours required per day.

(c)(1) Food service supervisors in homes of eighty (80) beds or less may be assigned to duties in the department, such as cooking, no more than fifty percent (50%) of their total work hours, but must be allowed adequate time for supervisory tasks.

(2) In homes of more than eighty (80) beds, the food service supervisor may be assigned to duties such as cooking, no more than twenty-five percent (25%) of their total work hours, but must be allowed adequate time from these assignments for supervisory tasks.

(d) The number of employees will be rounded off to the nearest whole number.

(e) If deficiencies are found that directly relate to shortage of personnel, additional personnel will be required.

Authority. Arkansas Code § 20-10-203.

Subpart 9. Informal Dispute Resolutions

20 CAR § 414-901. Generally.

(a)(1) When a long-term care facility does not agree with deficiencies cited on a statement of deficiencies, the facility may request an informal dispute resolution (IDR) meeting of the deficiencies in lieu of, or in addition to, a formal appeal.

(2) The IDR process is governed by Acts 2003, No. 1108, codified at Arkansas Code § 20-10-1901 et seq.

(b) The request for an informal dispute resolution of deficiencies does not stay the requirement for submission of an acceptable plan of correction and allegation of compliance within the required time frame or the implementation of any remedy, and does not substitute for an appeal.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-902. Requesting an informal dispute resolution.

(a) A written request for an informal dispute resolution must be made to the Department of Health, Health Facility Services, 5800 West 10th, Suite 400, Little Rock, AR 72204 within ten (10) calendar days of the receipt of the statement of deficiencies from the Office of Long-Term Care.

(b) The request must:

- (1) List all deficiencies the facility wishes to challenge; and
- (2) Contain a statement whether the facility wishes the IDR meeting to be conducted by telephone conference, by record review, or by a meeting in which the parties appear before the impartial decision maker.

Authority. Arkansas Code § 20-10-203.

Codification Notes. "IDR" means informal dispute resolution.

20 CAR § 414-903. Matters which may be heard at IDR.

(a) The IDR is limited to deficiencies cited on a statement of deficiencies.

(b) Issues that may not be heard at an IDR include, but are not limited to:

- (1) The scope and severity assigned the deficiency by the Office of Long-Term Care, unless the scope and severity allege substandard quality of care or immediate jeopardy;
- (2) Any remedies imposed;
- (3) Any alleged failure of the survey team to comply with a requirement of the survey process;
- (4) Any alleged inconsistency of the survey team in citing deficiencies among facilities; and
- (5) Any alleged inadequacy or inaccuracy of the IDR process.

Authority. Arkansas Code § 20-10-203.

Codification Notes. "IDR" means informal dispute resolution.

20 CAR § 414-904. Appeals.

(a) If a Medicaid certified facility is not satisfied with the results of the informal dispute resolution, it may request a hearing before the Long-Term Care Facility Advisory Board [abolished] within the sixty-day time frame for appeal.

(b) If the facility chooses, it may bypass the informal dispute resolution process and appeal directly to the board within the sixty-day appeal period.

(c) Requests must be submitted in writing to:

Chair
Long-Term Care Facility Advisory Board
P.O. Box 8059, Slot S409
Little Rock, AR 72203-8059

(d) Medicare and Medicare/Medicaid certified facilities may request a hearing by either the Associate Regional Administrator in the Dallas office of the Centers for Medicare and Medicaid Services or the Departmental Appeals Board at the addresses below at any point within the sixty-day time frame for appeals:

HCF-2
Associate Regional Administrator Division of Health Standards and Quality
Centers for Medicare and Medicaid Services
1200 Main Tower Building
Dallas, TX 75202

Department of Health and Human Services
Departmental Appeals Board, MS 6127
Civil Remedies Division
330 Independence Avenue, S.W. Cohen Building - Room G-644

Washington, D.C., 20201

(e) If the facility chooses to appeal to either of these agencies, a copy of the appeal should also be forwarded to the Office of Long-Term Care.

Authority. Arkansas Code § 20-10-203.

Codification Notes. The Long-Term Care Facility Advisory Board was abolished by Acts 2017, No. 540, § 39.

Subpart 10. Reporting Suspected Abuse, Neglect, Exploitation, Incidents, Accidents, Deaths from Violence, and Misappropriation of Resident Property

20 CAR § 414-1001. Generally.

(a) Pursuant to federal regulation 42 C.F.R. § 483.12 (Freedom from abuse, neglect, and exploitation) and state law Arkansas Code § 5-28-101 et seq. (Abuse of Adults) and the Arkansas Child Maltreatment Act, Arkansas Code § 12-12-501 et seq. [repealed], the facility must develop and implement written policies and procedures to ensure incidents, including alleged or suspected abuse or neglect of residents; accidents, including accidents resulting in death; unusual deaths or deaths from violence; unusual occurrences; and exploitation of residents or any misappropriation of resident property are prohibited, reported, investigated, and documented as required by this part.

(b)(1) A facility is not required under this part to report death by natural causes.

(2) However, nothing in this part negates, waives, or alters the reporting requirements of a facility under other rules, regulations, or statutes.

(c) Facility policies and procedures regarding reporting, as addressed in this part, must be included in orientation training for all new employees, and must be addressed at least annually during in-service training for all facility staff.

Authority. Arkansas Code § 20-10-203.

Codification Notes. The Arkansas Child Maltreatment Act was repealed by Acts 2009, No. 749, § 2.

20 CAR § 414-1002. Next business day reporting of incidents.

(a)(1) The following events shall be reported to the Office of Long-Term Care by facsimile transmission to telephone number 501-682-8551 of the completed Incident & Accident Intake Form, Form DMS-7734, no later than 11:00 a.m. on the next business day following discovery by the facility.

(2) Any alleged, suspected, or witnessed occurrences of abuse or neglect to residents.

(3) Any alleged, suspected, or witnessed occurrence of misappropriation of resident property, or exploitation of a resident.

(4)(A) Any alleged, suspected, or witnessed occurrences of verbal abuse.

(B) For purposes of this section, "verbal abuse" means the use of oral, written, or gestured language that willfully includes disparaging and derogatory terms to residents, or within their hearing distance, regardless of their:

(i) Age;

(ii) Ability to comprehend; or

(iii) Disability.

(C) Examples of verbal abuse include, but are not limited to threats of harm, saying things to frighten a resident, such as telling a resident that he or she will never be able to see his or her family again.

(5) Any alleged, suspected, or witnessed occurrences of sexual abuse to residents by any individual.

(b) In addition to the requirement of a facsimile report by the next business day on Form DMS-7734, the facility shall complete a Form DMS-762 in accordance with 20 CAR § 414-1006.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-1003. Incidents or occurrences that require internal reporting only — Facsimile report on Form DMS-762 not required.

(a) The following incidents or occurrences shall require the facility to prepare an internal report only and does not require a facsimile report, Form DMS-7734, or Form DMS-762 to be made to the Office of Long-Term Care.

(b) The internal report shall include all content specified in 20 CAR § 414-1004, as applicable.

(c)(1) Nursing facilities must maintain these incident record files in a manner that allows verification of compliance with this provision.

(2)(A) Incidents where a resident attempts to cause physical injury to another resident without resultant injury.

(B) The facility shall maintain written reports on these types of incidents to document patterns of behavior for subsequent actions.

(3) All cases of reportable disease, as required by the Department of Health.

(4) Loss of heating, air conditioning, or fire alarm system of greater than two (2) hours duration.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-1004. Internal-only reporting procedure.

(a)(1) Written reports of all incidents and accidents included in 20 CAR § 414-1003 shall be completed within five (5) days after discovery.

(2) The written incident and accident reports shall be comprised of all information specified in Form DMS-7734 and Form DMS-762 as applicable.

(b)(1) All written reports will be reviewed, initialed, and dated by the facility administrator or designee within five (5) days after discovery.

(2) All reports involving accident or injury to residents will also be reviewed, initialed, and dated by the Director of Nursing Services or other facility R.N.

(c) Reports of incidents specified in 20 CAR § 414-1003 will be maintained in the facility only and are not required to be submitted to the Office of Long-Term Care.

(d) All written incident and accident reports shall be maintained on file in the facility for a period of three (3) years.

Authority. Arkansas Code § 20-10-203.

Codification Notes. "R.N." means registered nurse.

20 CAR § 414-1005. Other reporting requirements.

The facility's administrator is also required to make any other reports of incidents, accidents, suspected abuse or neglect, actual or suspected criminal conduct, etc. as required by state and federal laws, rules, and regulations.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-1006. Abuse investigation report.

(a) The facility must ensure that all alleged or suspected incidents involving resident abuse, exploitation, neglect, or misappropriations of resident property are thoroughly investigated.

(b) The facility's investigation must be in conformance with the process and documentation requirements specified on the form designated by the Office of Long-Term Care, Form DMS-762, and must prevent further potential incidents while the investigation is in progress.

(c)(1) The results of all investigations must be reported to the facility's administrator, or designated representative, and to other officials in accordance with state law, including the office.

(2) Reports to the office shall be made via facsimile transmission by 11:00 a.m. the next business day following discovery by the facility, on Form DMS-7734.

(3) The follow-up investigation report, made on Form DMS-762, shall be

submitted to the office within five (5) working days of the date of the submission of the Form DMS-7734 to office.

(4) If the alleged violation is verified, appropriate corrective action must be taken.

(d) The Form DMS-762 may be amended and resubmitted at any time circumstances require.

Authority. Arkansas Code § 20-10-203.

20 CAR § 414-1007. Reporting suspected abuse or neglect.

(a) The facility's written policies and procedures shall include, at a minimum, requirements specified in this section.

(b) The requirement that the facility's administrator or his or her designated agent immediately reports all cases of suspected abuse or neglect of residents of a long-term care facility as specified below:

(1) Suspected abuse or neglect of an adult (eighteen (18) years of age or older) shall be reported to the local law enforcement agency in which the facility is located, as required by Arkansas Code § 5-28-203(b) [repealed]; and

(2)(A) Suspected abuse or neglect of a child (under eighteen (18) years of age) shall be reported to the local law enforcement agency and to the central intake unit of the Department of Human Services, as required by Acts 1991, No. 1208.

(B) Central intake may be notified by telephone at 1-800-482-5964.

(c) The requirement that the facility's administrator or his or her designated agent report suspected abuse or neglect to the Office of Long-Term Care as specified in this part.

(d) The requirement that facility personnel, including but not limited to, licensed nurses, nursing assistants, physicians, social workers, mental health professionals, and other employees in the facility who have reasonable cause to suspect that a resident has been subjected to conditions or circumstances which have or could have resulted in abuse or neglect are required to immediately notify the facility administrator or his or

her designated agent.

(e)(1) The requirement that, upon hiring, each facility employee be given a copy of the abuse or neglect reporting and prevention policies and procedures and sign a statement that the policies and procedures have been received and read.

(2) The statement shall be filed in the employee's personnel file.

(f)(1) The requirement that all facility personnel receive annual, in-service training in identifying, reporting, and preventing suspected abuse/neglect, and that the facility develops and maintains policies and procedures for the prevention of abuse and neglect, and accidents.

(2) The policy shall also require that documentation of training must be maintained by the facility.

Authority. Arkansas Code § 20-10-203.

Codification Notes. Arkansas Code § 5-28-203(b) was repealed by Acts 2005, No. 1812, § 2.